

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re: Methyl Tertiary Butyl Ether ("MTBE")  
Products Liability Litigation

Master File C.A. No.  
1:00-1898 (SAS)  
MDL 1358

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*This Document Relates to:*

*Basso, et al. v. Sunoco, Inc., et al.*, No. 03-Civ-9050  
*Tonneson, et al. v. Sunoco, Inc., et al.*, No. 03-Civ-8248

**EXXON MOBIL CORPORATION'S PROPOSED VERDICT FORM**

According to the principles of law as charged by the Court and the facts as you find them, please answer the following questions:

**I.      Liability**

**A.      Alleged Release from the Mobil Branded Service Station**

1.      Have plaintiffs established by a preponderance of the evidence that there was a vapor release of gasoline from the Mobil branded service station in Fort Montgomery, New York that caused MTBE to contaminate each plaintiff's well?

YES \_\_\_\_\_      NO \_\_\_\_\_

2.      Have plaintiffs established by a preponderance of the evidence that there were customer spills of gasoline at the Mobil branded service station in Fort Montgomery, New York that caused MTBE to contaminate each plaintiff's well?

YES \_\_\_\_\_      NO \_\_\_\_\_

*If your answer is "Yes," to either question 1 or 2, continue to question 3. If your answer to both questions was "No," proceed no further and have the foreman sign on the last page of the verdict sheet..*

3. If you answered "yes" to questions 1 or 2, please indicate the percentage you find that each of the spills contributed to the contamination in each of the plaintiff's wells (the total must equal 100%):

Bogardus: Vapor Release: \_\_\_\_\_ %

Customer Spills: \_\_\_\_\_ %

Other Source: \_\_\_\_\_ %

Boyce Vapor Release: \_\_\_\_\_ %

Customer Spills: \_\_\_\_\_ %

Other Source: \_\_\_\_\_ %

Buchholz Vapor Release: \_\_\_\_\_ %

Customer Spills: \_\_\_\_\_ %

Other Source: \_\_\_\_\_ %

Burley Vapor Release: \_\_\_\_\_ %

Customer Spills: \_\_\_\_\_ %

Other Source: \_\_\_\_\_ %

Camacho Vapor Release: \_\_\_\_\_ %

Customer Spills: \_\_\_\_\_ %

Other Source: \_\_\_\_\_ %

**B. Product Liability Claim**

4. Have plaintiffs established by a preponderance of the evidence that gasoline with MTBE is a defective product?

YES \_\_\_\_\_ NO \_\_\_\_\_

*If your answer is “Yes,” continue to question 5. If “No,” please skip questions 5 - 6 and continue by answering question 7.*

5. Have plaintiffs established by a preponderance of the evidence that the defect was a “substantial factor” that caused MTBE to impact their wells?

YES \_\_\_\_\_ NO \_\_\_\_\_

6. Have Plaintiffs established by a preponderance of the evidence that there was a feasible alternative to the use of MTBE in gasoline to meet the requirements of the Clean Air Act?

YES \_\_\_\_\_ NO \_\_\_\_\_

**C. Emotional Distress Due to Fear of Future Injury**

7. Have plaintiffs established by a preponderance of the evidence that they were exposed to MTBE?

YES \_\_\_\_\_ NO \_\_\_\_\_

*If your answer to question 7 is “Yes,” continue to questions 8 through 14. If your answer to question 7 is “No,” please skip questions 10 through 16 and continue by answering question 15.*

8. Has plaintiff, Keith Bogardus, established by a preponderance of the evidence that he has DNA adducts caused by MTBE?

YES \_\_\_\_\_ NO \_\_\_\_\_

9. Has plaintiff, Sandra Bogardus, established by a preponderance of the evidence

that she has DNA adducts caused by MTBE?

10. Has plaintiff, Donna Boyce, established by a preponderance of the evidence that she has DNA adducts caused by MTBE?

YES \_\_\_\_\_ NO \_\_\_\_\_

11. Has plaintiff, Joan Buccholz, established by a preponderance of the evidence that she has DNA adducts caused by MTBE?

YES \_\_\_\_\_ NO \_\_\_\_\_

12. Has plaintiff, Ronald Buccholz, established by a preponderance of the evidence that he has DNA adducts caused by MTBE?

YES \_\_\_\_\_ NO \_\_\_\_\_

13. Has plaintiff, Anna Burley, established by a preponderance of the evidence that she has DNA adducts caused by MTBE?

YES \_\_\_\_\_ NO \_\_\_\_\_

14. Has plaintiff, Stacey Camacho, established by a preponderance of the evidence that she has DNA adducts caused by MTBE?

YES \_\_\_\_\_ NO \_\_\_\_\_

D. Trespass Claim

15. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation caused the MTBE to be released from the Mobil branded service station in Fort Montgomery, New York?

YES \_\_\_\_\_ NO \_\_\_\_\_

*If your answer is “Yes,” continue to questions 16 through 20. If “No,” please skip questions 16 through 20 and continue by answering question 21.*

16. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation intended that MTBE would reach the Bogardus' well?

YES \_\_\_\_\_ NO \_\_\_\_\_

17. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation intended that MTBE would reach the Boyce well?

YES \_\_\_\_\_ NO \_\_\_\_\_

18. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation intended that MTBE would reach the Buccholz's well?

YES \_\_\_\_\_ NO \_\_\_\_\_

19. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation intended that MTBE would reach the Burley's well?

YES \_\_\_\_\_ NO \_\_\_\_\_

20. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation intended that MTBE would reach the Camachos' well?

YES \_\_\_\_\_ NO \_\_\_\_\_

E. Navigation Law Claim

21. Have plaintiffs established by a preponderance of the evidence that Exxon Mobil Corporation caused the MTBE to be released from the Mobil branded service station in Fort Montgomery, New York?

YES \_\_\_\_\_ NO \_\_\_\_\_

**II. Compensatory Damages**

**A. Property Damage:**

22. If you answered "yes" to Questions 4, 5 and 6, 15 or 21 and find that plaintiffs, Keith and Sandra Bogardus, should receive a monetary award for property damage, please provide the following:

Fair Market Value of the property  
before MTBE was detected: \$ \_\_\_\_\_

Amount to perform necessary repairs  
the property: \$ \_\_\_\_\_

Fair Market Value of the property  
“as is” without repair today: \$ \_\_\_\_\_

23. If you answered “yes” to Questions 4, 5 and 6, 15 or 21 and find that plaintiff, Donna Boyce, should receive a monetary award for property damage, please provide the following:

Fair Market Value of the property  
before MTBE was detected: \$ \_\_\_\_\_

Amount to perform necessary repairs  
the property: \$ \_\_\_\_\_

Fair Market Value of the property  
“as is” without repair today: \$ \_\_\_\_\_

24. If you answered “yes” to Questions 4, 5 and 6, 15 or 21 and find that plaintiff, Joan and Ronald Buchholz, should receive a monetary award for property damage, please provide the following:

Fair Market Value of the property  
before MTBE was detected: \$ \_\_\_\_\_

Amount to perform necessary repairs  
the property: \$ \_\_\_\_\_

Fair Market Value of the property  
“as is” without repair today: \$ \_\_\_\_\_

25. If you answered “yes” to Questions 4, 5 and 6, 15 or 21 and find that plaintiff, Anna Burley, should receive a monetary award for property damage, please provide the

following:

Fair Market Value of the property  
before MTBE was detected: \$ \_\_\_\_\_

Amount to perform necessary repairs  
the property: \$ \_\_\_\_\_

Fair Market Value of the property  
“as is” without repair today: \$ \_\_\_\_\_

26. If you answered “yes” to Questions 4, 5 and 6, 15 or 21 and find that plaintiff, Stacey Camacho, should receive a monetary award for property damage, please provide the following:

Fair Market Value of the property  
before MTBE was detected: \$ \_\_\_\_\_

Amount to perform necessary repairs  
the property: \$ \_\_\_\_\_

Fair Market Value of the property  
“as is” without repair today: \$ \_\_\_\_\_

**B. Emotional Distress Due to Fear of Future Injury:**

27. If you answered “yes” to Question 8, state the amount of damages, if any, that you award to the plaintiff, Keith Bogardus, for emotional distress due to fear of future injury:

\$ \_\_\_\_\_

28. If you answered “yes” to Question 9, state the amount of damages, if any, that you award to the plaintiff, Sandra Bogardus, for emotional distress due to fear of future injury:

\$ \_\_\_\_\_

29. If you answered “yes” to Question 10, state the amount of damages, if any, that you award to the plaintiff, Donna Boyce, for emotional distress due to fear of future injury:

\$ \_\_\_\_\_

30. If you answered “yes” to Question 11, state the amount of damages, if any, that you award to the plaintiff, Joan Buchholz, for emotional distress due to fear of future injury:

\$ \_\_\_\_\_

31. If you answered “yes” to Question 12, state the amount of damages, if any, that you award to the plaintiff, Ronald Buchholz, for emotional distress due to fear of future injury:

\$ \_\_\_\_\_

32. If you answered “yes” to Questions 13, state the amount of damages, if any, that you award to the plaintiff, Anna Burley, for emotional distress due to fear of future injury:

\$ \_\_\_\_\_

33. If you answered “yes” to Question 14, state the amount of damages, if any, that you award to the plaintiff, Stacey Camacho, for emotional distress due to fear of future injury:

\$ \_\_\_\_\_

## **II. Punitive Damages**

34. If you answered “yes” to any of Questions 4, 5 and 6 do you find that defendant, Exxon Mobil Corporation acted with malice or reckless indifference to plaintiff’s rights?

YES \_\_\_\_\_ NO \_\_\_\_\_

35. If you answered “yes” to Question 34, state the amount of punitive damages, if any, that you award to the each plaintiff:

Keith Bogardus \$ \_\_\_\_\_

Sandra Bogardus \$ \_\_\_\_\_

Donna Boyce \$ \_\_\_\_\_

Joan Buchholz      \$ \_\_\_\_\_

Ronald Buchholz      \$ \_\_\_\_\_

Anna Burley      \$ \_\_\_\_\_

Stacey Camacho      \$ \_\_\_\_\_

*Please have the foreperson sign and date this Verdict Sheet, and advise the Court by note that you have reached a verdict.*

Dated: March \_\_, 2009  
New York, New York

Signed:

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FOREPERSON